

N.Z. ASSOCIATION OF RATIONALISTS & HUMANISTS (Inc.)

ESTABLISHED 1927

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27 May 2007

Human Rights Commission,
PO Box 6751,
Wellesley Street,
Auckland

Complaint to the Human Rights Commission regarding discrimination in the National Statement on Religious Diversity

Dear Sir/Madam,

1. I am writing on behalf of the New Zealand Association of Rationalists and Humanists (Inc.) to lay a complaint about discrimination in the *National Statement on Religious Diversity* [1]. The NZARH is a non-profit organisation that exists to serve the interests of non-religious people in New Zealand.

Overview

2. The complaint is that the *National Statement on Religious Diversity* breaches the *Human Rights Act 1993* by discriminating against those who have an ethical rather than a religious belief. This complaint is against both the Race Relations Commissioner and the Human Rights Commission which facilitated the *National Statement on Religious Diversity* as part of its Diversity Action Programme. While they did not directly write the Statement it is the involvement and promotion by a Crown entity that gives the Statement its credibility and publicity.

The details of the parties that we are complaining about are:

Joris de Bres
Race Relations Commissioner
Human Rights Commission
Level 8, Vogel Building, 8 Aitken Street, Thorndon, Wellington
PO Box 12411, Thorndon, Wellington 6144
Ph: 04 473 9981 Fax: 04 471 6759

3. A background detailing the origins of the *National Statement on Religious Diversity* can be found in the document *Development of the National Statement on Religious Diversity* [2]. The specific version of the *National*

Honorary Associates: Gianni Bartocci, H James Birx, Raymond Bradley, Steve Cooper, Richard Dawkins, Warwick Don, Zoë During, Denis Dutton, Sanal Edamaruku, Brian Edwards, Antony Flew, Levi Fragell, Ida Gaskin, Maurice Gee, Dame Barbara Goodman, Finngéir Hiorth, Bernard Howard, Paul Kurtz, Lavanam, Richard Leakey, Tim Madigan, Michael Martin, Taslima Nasrin, Jean-Claude Pecker, Ian Plimer, Anwar Shaikh, Younas Shaikh, Barbara Smoker, Dame Catherine Tizard, David Tribe, Ibn Warraq, Lewis Wolpert

Statement on Religious Diversity that this complaint refers to is dated March 2007.

4. While the *National Statement on Religious Diversity* is about religion this does not mean that the subject is relevant only to religious New Zealanders. Non-religious New Zealanders make up a significant portion of the population (37% [3]) and it is important that a national statement covers not only interactions between those with similar or different sets of religious beliefs, but also the interactions between those with a religious belief and those who do not hold a religious belief.

The following extract from Professor Paul Morris' speech to the National Interfaith Forum [3] shows that this should be the case.

“...it was decided that the Statement should be inclusive of the non – religious although it was noted that this was a statement on religious diversity not on everyone and the focus was necessarily on the religious communities.”

5. There are two clear areas where the *National Statement on Religious Diversity* is discriminatory against those with an ethical rather than a religious belief.
 1. The promotion of the right to safety and security for faith communities and their members is not balanced with the corresponding responsibility of promoting the same right for the non-religious.
 2. In addition to promoting the rights and responsibilities relevant to religious diversity the Statement goes beyond its rationale by seeking special treatment for faith communities that is not available to those without a religious belief.

The Right to Safety

6. While the introduction to the *National Statement on Religious Diversity* talks about recognising the right to religion and the responsibilities of religious communities, the actual clauses are unbalanced with regard to the responsibilities of religious communities. The most serious omission is the clause regarding the right to safety.

“3. The Right to Safety
Faith communities and their members have a right to safety and security.”

7. This clause fails to cover the right to safety of people outside faith communities. This is clearly at odds with the rationale given in the *Summary and Background to the National Statement* [4] .

“The rationale behind the National Statement on Religious Diversity is the need to acknowledge the fact of New Zealand’s increasing and unprecedented religious diversity and its implications in developing ways of living together peacefully with our religious and cultural differences. The Statement affirms the right of New Zealanders to

express, practice and promote their religious traditions within the framework of New Zealand law and to acknowledge that the same rights are afforded to other New Zealanders. This also extends to the right to have no religion.”

8. The decision to keep the clause was that it reflects the concerns about safety and security of a number of religious communities [3]. While members of religious communities may feel concerned about their personal safety there are many groups that have legitimate concerns for their safety and security from religious communities. A good example of such a group is homosexuals who have a long history of suffering religious persecution. The recent controversy over the Mohammed cartoons highlights a problem of self-imposed censorship because the religious community involved has a history of violent reprisals in response to criticism.
9. Another problem is that the way clause 3 is currently worded it excludes people who have left or are in the process of leaving a faith community. This is a serious concern as these people can be particularly vulnerable as often they have been ostracised from their previous support network.
10. It could be argued that the safety of the non-religious is already covered by the clause 7 on religious differences. However it would then follow that the entire clause should be scrapped as the same argument also applies to the safety of the religious.
11. The argument that clause 3 doesn't disadvantage the non-religious as everyone has the right to safety and security doesn't change the fact that the clause is discriminatory. In the context of the *National Statement on Religious Diversity* a right of the religious communities is emphasised without the corresponding responsibility despite a key rationale behind having the Statement being addressing the problem of religious tensions.

Religious Privilege

12. The Statement goes beyond its rationale by seeking special treatment for faith communities that is not available to those without a religious belief. While we also have concerns about schools teaching an understanding of different religious and spiritual traditions but failing to teach non-religious ethical beliefs, a more clear-cut concern is regarding the clause for cooperation and understanding.

“8. Cooperation and Understanding

Government and faith communities have a responsibility to build and maintain positive relationships with each other, and to promote mutual respect and understanding.”

13. The wording of this clause has changed considerably from the draft version of the Statement presented for consultation. Instead of having both Government and faith communities promoting tolerance and understanding in the community, this clause now has Government and faith communities being responsible for promoting mutual respect and understanding. This

responsibility does not currently exist. Having this in the Statement is stating a special relationship between Government and faith communities that doesn't exist for other groups.

Area and Exemptions

14. The Human Rights Commission is a Crown entity that performs a public function conferred on them by law and therefore is subject to the *Human Rights Act 1993*.
15. There are no known grounds for this discrimination complaint not proceeding. The discrimination that this complaint refers to is not subject to an exemption as it is not within Parliament, is not a judgement or decision of the courts, and is not related to an immigration decision. The *National Statement on Religious Diversity* was not undertaken as a special measure to assist a disadvantaged group achieve equality. The discrimination does not meet the criteria to be demonstrably justified under the *Human Rights Act 1993*.

Effect of Discrimination

16. Representatives of the non-religious community and non-religious people that have been spoken with feel they are being excluded by the *National Statement on Religious Diversity*. Through almost all of the Statement's history it seems that the viewpoint of the non-religious was thought to be irrelevant and it was only late in its development that it was decided that the Statement would also cover the non-religious. This meant that the Working/Reference Group did not have anyone to represent the non-religious viewpoint. It could be strongly argued that having a non-religious viewpoint would have greatly contributed to the Statement and would have made the outcome far more pragmatic in trying to achieve the rationale behind the Statement.

Attempts to Resolve

17. The NZARH and a number of its members made submissions on the draft Statement. We have tried to arrange a meeting with the Race Relations Commissioner to talk about our concerns regarding the Statement. However the Race Relations Commissioner said that he was unable to meet with us.

Public Consultation

18. At the time of the public consultation process there was very little information provided explaining the need for the Statement. At the Auckland City consultation meeting no one could provide any explanation of how the Statement was to be used, apart from that it was going to be made into some kind of booklet. It was only later after the close of submissions that the actual rationale for the Statement started to emerge with most of this information coming after the Revised Statement had been presented at the fourth National Interfaith Forum.
19. It is likely that many of the public responses would have been different if more information regarding the rationale and the intended use of the Statement was available at the time of consultation. There is a disconnect between the Statement and the rationale for it. We feel the Human Rights

Commission have missed an opportunity to tackle some important points relevant to human co-existence and well-being.

Desired Outcomes

20. The desired outcomes of this complaint are:
- That the Statement be modified to be non-discriminatory.
 - That the Working/Reference Group developing the Statement be opened to representatives for the non-religious to better reflect the beliefs of society, especially the 1.3 million who don't hold a religious belief.
 - That the public consultation process be improved for future issues.
 - That a study examining the reasons for religious intolerance overseas be undertaken in order to identify its causes. The results of such a study would enable the Human Rights Commission to take effective action.
21. While much of the original rationale behind the *National Statement on Religious Diversity* is admirable, the process of creating the Statement and the current outcome has unfortunately left much to be desired. I find it sad that we have had to resort to this complaint to get our views across and hope that in the future that we can work together on relevant issues.

Yours faithfully,

Andrew Geard

Councillor, NZARH
mobile: 027-2787-666

References

[1] National Statement on Religious Diversity
<http://www.hrc.co.nz/home/hrc/introduction/tengirathenzdiversityactionprogramme/statementonreligiousdiversity.php>

[2] Development of the National Statement on Religious Diversity
http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/20-Apr-2007_13-40-00_Development_of_the_National_Statement_on_Religious_Diversity.doc

[3] Professor Paul Morris' speech to the National Interfaith Forum
http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/19-Mar-2007_10-15-11_21_Feb_2007_Paul_Morris_Hamilton_Speech.doc

[4] Summary and background to the National Statement
http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/19-Mar-2007_10-19-17_nsrdoc_background.doc